

REMARKS

Applicants wish to thank the Examiner for the review of the present application. Claims 1-25, 40, 46, 47, 59, 65 and 66 have been cancelled, claims 26, 28 and 48 have been amended, and new claims 67-95 have been added. No new matter has been added.

35 U.S.C. §112

Claims 40 and 59 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 40 and 59 have been cancelled.

35 U.S.C. §102

Claims 26-45 and 48-66 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. patent no. 6,575,980 (Robie et al., hereinafter Robie). Amended claim 25 is directed to a tool that includes, in part, a mold having a surface for engaging a joint surface. The surface is a mirror image of the joint surface.

Robie discloses a gap checking device having a curved base adapted to engage the distal end of a patient's femur (see Robie at col. 2, lines 33-34 and col. 5, lines 43-46). While Robie does disclose that the structure and outer surface of the gap checking device is matched to the design of the prosthesis components (see Robie at Figs. 10a-b and col. 4, lines 60-63), nowhere does Robie disclose that any portion of the curved base is a mirror image of the engaged femur. Indeed, Figs. 10a-b of Robie suggests otherwise. Since Robie fails to teach or suggest a mold having a surface for engaging a joint surface, wherein the surface is a mirror image of the joint surface, as required by amended claim 25, amended claim 25 is allowable over Robie. Dependent claims 27-45 and 67-79 are allowable for the same reason as claim 25, and are further allowable in view of the additional limitations set forth therein.


Amended claim 48 requires a mold having a surface for engaging a joint surface, the surface being a mirror image of the joint surface. Accordingly, amended claim 48, and dependent claims 49-66 and 80-95 are allowable over Robie for the same reason as claim 25, and are further allowable in view of the additional limitations set forth therein.

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Applicant believes that no extension of time is required; however, this conditional petition is being made to provide for the possibility that the applicant has inadvertently overlooked the need for an extension of time. If any additional fees are required for the timely consideration of this application, please charge deposit account number 19-4972.

It is believed that the application is in condition for allowance. Consideration of the application and issuance of a notice of allowance are respectfully requested.

Respectfully submitted,



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